IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8463 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GULSHAN SUGARS & CHEMICALS LTD

Versus

GUJARAT POLLUTION CONTROL BOARD

Appearance:

MR MIHIR H JOSHI for Petitioner

MR HARESH J TRIVEDI for Respondent No.1, GPCB.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE R.R.TRIPATHI

Date of decision: 10/08/2000

ORAL JUDGEMENT : (Per M.R. Calla, J.)

The petitioner, i.e., Gulshan Sugars & Chemicals Ltd. filed this petition on 31st July 2000 with the prayer that the order dated 27th July 2000, Annexure 'I' passed by the respondent, Gujarat Pollution Control Board be quashed and set aside and a direction be issued to the respondent to permit the petitioner to discharge treated effluent into the GIDC drain. In response to the rule issued by this Court on 2.8.2000, Mr.H.J. Trivedi entered appearance on behalf of the Gujarat Pollution Control Board.

2. It is given out by both the sides that this case is identical to Special Civil Applications Nos.5862 of 2000, 6078 of 2000, 6346 of 2000 and 6347 of 2000, which were decided by a common order dated 12th July 2000. Mr. Mihir Joshi submitted that lastly on 31.3.2000, consent was given by the Gujarat Pollution control Board for discharge of effluent arising as a result of the manufacture of Sorbitol, as required under the Water (Prevention and Control of Pollution) Act, 1974 (Water Act, 1974" for brevity). Thereafter, on 9.12.1999, an application was made by the petitioner seeking permission for disposal of treated effluent into the GIDC drain and accordingly the condition as above which was imposed by giving consent was sought to be amended and deleted. The petitioner has also approached the GIDC seeking permission to discharge treated effluent in the GIDC drain through its letter dated 8.12.1999 and the GIDC informed the petitioner on 1.1.2000 that the petitioner may approach the Gujarat Pollution Control Board for necessary amendment in the order. The Gujarat Pollution Control Board issued order on 27th July 2000, that the petitioner's request cannot be considered in light of the High Court's directive in Special Civil Application No.4473 of 1997 decided on 21.10.1999 and therefore, the petitioner shall have to strictly adhere to the conditions stipulated vide consent order dated 31.3.2000 under the Water Act, 1974.

3. There is no dispute that the site clearance and NOC had been granted on 22.9.1995 and on 11.7.1997 respectively, i.e. before the date on which Special Civil Application No.4473 of 1997 was decided, i.e. 21.10.1999 and there is no dispute that the order passed in the aforeaid Special Civil Application was for the new units, whereas the unit of the petitioner company is a old unit for which site clearance and NOC have also been issued prior to the date of decision in the Special Civil Application. Therefore, on the basis of that order, the petitioner could not be deprived from the amendment of the condition with regard to discharge of the treated

effluent in the GIDC drain, more particularly, when GIDC has no objection subject to the condition of amendment by the Gujarat Pollution Control Board. In this view of the matter, the Gujarat Pollution Control Board may reconsider the question of amendment of the aforesaid condition on the basis that the aforesaid order passed by the High Court is not applicable to the facts of the present case and may decide the question of allowing the petitioner to discharge treated effluent into the GIDC drain. Mr.H.J. Trivedi, learned advocate has no objection to the above course of action.

4. This petition is allowed as aforesaid. Rule is made absolute. No order as to costs.

(M.R. Calla, J.)

10th August 2000 (Ravi R. Tripathi, J.)

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